

## Looking in on the Texas Legislature

**W**ith a record number of 109 bills filed as of March 15th, it's apparent the 75th Legislature has its eye on the Alcoholic Beverage Code. The topics range from licensed handgun possession on licensed premises and consolidation or elimination of licenses/permits to stiffer penalties for sale to minors and minors in possession.

The study conducted by the Senate Interim Committee on Juvenile DWI Laws resulted in two senate bills which affect the Code (SB 35 and SB 541). Both bills passed the Senate and were pending in the House at the time of printing. SB 35 creates a separate offense for driving under the influence of alcohol by a minor and a "zero tolerance"

blood alcohol content for drivers under 21. It also enhances current penalties for minors possessing, consuming or purchasing alcoholic beverages.

The proposed legislation creates a new section in the Code stating that a minor commits a Class C misdemeanor if the minor operates a motor vehicle in a public place while having any detectable amount of alcohol in his/her system. The minor is subject to a fine along with community service related to education about or prevention of alcohol misuse, as well as driver's license suspension.

This bill also amends the punishment for a minor in possession, a minor purchasing or attempting to purchase or consumption of alcohol by a minor. The penalty currently for these violations is a fine of \$25 to \$200 and attendance at an alcohol awareness course. The proposed penalty is a Class C misdemeanor with a fine not to exceed \$500, as well as attendance at an alcohol awareness course and community service. Two or more violations

would result in a fine not to exceed \$2,000 or confinement in jail not to exceed 180 days, or both.

In addition to the above penalties, the minor's driver's license will be suspended for 30-180 days.

Sale to a minor is changed from a fine of \$100 to \$500 with

possible jail time to a Class A misdemeanor punishable by a fine not to exceed \$4,000, confinement up to one year or both.

If a retailer sells to a minor three or more times in a 24-month period, SB 541 proposes that each employee of the permit holder must successfully complete a seller training program and the employer must keep employees trained for 24 months. This requirement is in addition to any other administrative or criminal sanction. Current law provides that the actions of an employee in reference to sale to a minor or intoxicated person are not attributable to a permit holder if the employer requires employees to attend seller training, that the employee was in fact seller trained

and the employer has not encouraged the employee to violate such law.

SB 541 would amend the criteria to requiring the employee to complete a seller training course, pass

a standardized test and provides that the commission must adopt rules

requiring objective criteria which will demonstrate the employer is making an effort to prevent the sale to or consumption by minors and intoxicated persons. The bill also proposes to revoke the seller training certificate of the employee if the employee sells to a minor or intoxicated person.

These bills are not yet law, but appear to be well on their way. The leadership in Texas is serious about addressing the problems associated with underage drinking, minors driving under the influence and those who illegally provide alcohol to minors. The next edition of *TABC Today* will take a closer look at the 75th Texas Legislature and its impact on the TABC and the Code. ♦

***A record number of 109 bills that target the Alcoholic Beverage Code have been filed during the 75th Legislature.***

### Inside ♦♦♦♦♦

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## Towards Safe Proms and Graduations

In conjunction with the Texas Hotel & Motel Association, the TABC launched a statewide enforcement initiative targeting high school prom and graduation celebrations. "Operation Safe Prom/Safe Graduation" was announced at a press conference held at the State Capitol and featured presentations from numerous individuals representing various organizations. "By working with members of the THMA, the alcoholic beverage industry, other law enforcement agencies, MADD and other concerned groups, we hope to forge

a partnership that will bring a heightened awareness of the dangers associated with underage drinking. The basic purpose of this operation is to ensure that this milestone achievement in a young person's life is a safe and sober occasion that they can treasure for a long time," says TABC Administrator Doyne Bailey. Pictured here is THMA Executive Vice-President Don Hansen flanked by TABC Chairman Allan Shivers, Jr., and Senator Royce West during some of the opening comments at the press conference. ♦



## Administrator's Corner

One of the many "pithy" sayings that former Texas Liquor Control Board Administrator Bert Fort would impress upon agency employees back in the 1930's was *"courtesy costs nothing and pays much."* Today, some 60 years later, we spend a good deal of time and effort at the TABC promoting the benefits of courteous behavior.

At times we wrap courtesy in the cloak of professionalism and use the rationale that "a professional does not change his/her demeanor to match that of the person with whom he/she is dealing." Perhaps a more common approach is to remind public servants of the ancient teaching of "doing unto others as you would have them do unto you."

After an in-service training where every known justification was used to promote courteous behavior, one of our supervisors went back to his district and told his agents that "Austin wants you all to be nice." For emphasis, he wrote on the chalk board: "Be Nice." After the room cleared, someone went back in and added an "R" between "Be" and "Nice." Since that day, their motto has been BERNICE, and they work hard not to let her down!

When I review the satisfaction surveys that many of you complete and return to me, I occasionally run across one that reports that an agent who came into your establishment was rude. Our agents are trained to scan for violations and move quickly to investigate suspicious activity when they conduct their inspections. They should then locate the owner or manager and introduce themselves as well as explain the purpose of their visit.

We want each contact to be a pleasant one. We insist that the agent

be professional. We encourage courtesy and we are really pleased when one of our agents is described as being "friendly." Unfortunately, pre-employment medical exams are conducted on everyone who wants to be an enforcement agent with the TABC and the reports indicate that everyone of them are human.

Despite their training and commitment to professionalism, they sometimes aren't too friendly when they encounter hostility.

We will always investigate complaints of unprofessional behavior and we want to hear those complaints. We will always encourage our personnel to be courteous and friendly. You can help us by extending to them the same professionalism, courtesy and friendly attitude with which you would like to be treated. It costs neither one of us anything and, as Bert Ford noted a long time ago, we both benefit immensely. ♦

Doyne Bailey



# AT ISSUE: Do Minor Stings Make A Difference?

The TABC has completed the second of a series of minor sting operations targeting randomly selected retailers in Bexar, Dallas, El Paso, Harris, Hidalgo, Tarrant, and Travis Counties. During the course of these operations, which occurred in October and November of 1996 and then again in February 1997, alcoholic beverage buys were attempted at a total of 837 retail establishments by minors supervised by TABC enforcement agents. Approximately one-quarter of the retailers (212) were targeted twice, once during each sting series, in order to test the agency's assumption that retailer compliance with the sale to minor state law actually increases as a consequence of minor stings.

The results of the two operations provided substantial evidence that the TABC was correct in its assumption. The overall compliance rate for all retailers at the test sites improved between the two series of stings (from an overall rate of 56% to one of 68%). The group that was "stung" twice posted a dramatic gain, increasing its compliance rate from 59% at the time of the first series sting to 75% by the time of the second.

The sting result also demonstrated that sellers and servers who had

completed TABC approved seller/server certification programs were much less likely to make an illegal sale to a minor than were those who had not completed such a course. The compliance rate of certified sellers and servers was found to be 40% higher than that of non certified sellers and servers during the first sting series and 37% higher at the time of the second series of stings.

In addition, the results also showed

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Greg Hamilton

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a significant difference between the compliance rates of off-premises retailers and of those whose licenses permit the sale of alcoholic beverages for on-premises consumption. Off-premises retailers, for example, enjoyed an overall no-sale rate of 65% at the time of the first sting series and a 74% compliance rate at the time of the second, while the compliance rates for on-premises retailers during the two operations were 48% and 59%, respectively.

"We now have hard evidence that minor stings are an effective tool for increasing the rate of age-law compliance among retailers. The Commission has also demonstrated that responsible retailer business practices, such as seller/server training, can prevent illegal sales and increase retailer compliance rates. We will continue to use minor stings as a method for monitoring and promoting retailer compliance because it has proven to be effective. For the same reason, the Commission will also continue to help retailers identify and adopt business practices, like seller/server training for employees and mandatory ID checks, that also reduce the likelihood of illegal sales being made to minors," noted Chief of Enforcement Greg Hamilton.

"The goal here," added Hamilton, "is to reduce the supply of alcoholic beverages available to underage drinkers. A 'big stick' approach, like minor stings, won't get the job done by itself. The TABC needs the voluntary cooperation and active support of responsible retailers. After all, we all live in and serve the same communities. We have to work together to make them safe." ♦

## SURFING THE NET?

Here's Where We're @TABC.STATE.TX.US.

We've heard from a professor in Pennsylvania who's doing research on local option elections. A woman wants to import some wine from Germany and wants to know about any restrictions. A parent notified us that two kegs of beer were being raffled off at his son's high school for prom night. Inquiries concerning brew pubs, microbreweries, licenses/permits and accompanying fees, employment opportunities and the Code have been numerous. One web surfer even wanted to know who's our "lead man?" Since going on-line with our public web address, we've had some rather interesting "hits." If you want to find out a little more about the TABC, visit our website at (<http://www.tabc.state.tx.us>). If you've got some questions you can e-mail us at: [questions@tabc.state.tx.us](mailto:questions@tabc.state.tx.us). If you want to report a violation of the TABC Code, you can e-mail us at: [complaints@tabc.state.tx.us](mailto:complaints@tabc.state.tx.us). We look forward to hearing from you! ♦



# Raising The Flag On Fake ID's

**C**an you spot a fake ID? When a young looking customer appears in your store and wants to buy alcoholic beverages, what do you do? We asked our field agents to come up with a list of tips on how to examine identification. Here's what they told us.

False ID's come in many shapes and forms. Many times an old or expired license from an older friend or relative is used. Look for the word "duplicate" on the card. Someone else may have the original card. Check the card's expiration date. Do not accept the license if the date is expired. Make sure the photo, height and weight on the card match the person in front of you.

Another type of false ID is the altered document. A legal identification

card is altered by substituting a photo or "whiting" out certain numbers. Sometimes altered information is laminated over the original card. Look for glue lines, bumpy surfaces by picture or birth date or around the edge of card. Uneven surfaces often indicate tampering. Look at the consistency of the numbers. The typeset for the birth date and expiration date should match the lettering used on the rest of the license. Also look for tiny pieces of paper with modified dates placed over the original numbers. Look at the state logo. A state seal or logo that is partially missing or appears altered is another clue to a fake card. If the card has pin holes on the surface, bleach may have been inserted to "white out" certain aspects of a date.

Often an underage drinker will

carry a counterfeit driver's license. Manufacturers of counterfeit identification can often be found in areas where college students congregate. Often the production of counterfeit ID's are substandard to cards issued by the Department of Public Safety. Look at the card's reverse-side lettering. While the front may appear flawless, often counterfeiters merely photocopy the reverse side. Look for blurred lettering. Look at the size, color, lettering, thickness and corners. Compare the questionable card against a "standard" (your own valid driver's license).

Is there a simple way to remember what to look for when examining identification? You bet! Remember to "FLAG" each customer who looks to be underage.

## Spring Break Round-Up

**E**verything is over now except the paperwork and local clean-up efforts, but while in progress, Spring Break '97 did keep the TABC, DPS, and local law enforcement authorities busy. Thanks largely to the weather, crowd sizes were smaller than anticipated. The smaller crowds and a well-planned, highly coordinated effort involving state and local agencies on both sides of the border did much to contain problems and to prevent mishaps. In fact, for the first time in recent memory, no serious alcohol-related incidents involving Spring Breakers occurred in the traditional Spring Break beach areas (Padre Island, Port Aransas, and Galveston island). The TABC congratulates its state and local partners in law enforcement, responsible area retailers, and the young visitors to our beaches for making Spring Break 1997 a safe and enjoyable time for everyone.

**FEEL** the ID for bumps, cuts and pin holes. Feel for raised portions of the card by the birth date or photograph which may indicate the date or photo has been replaced by another.

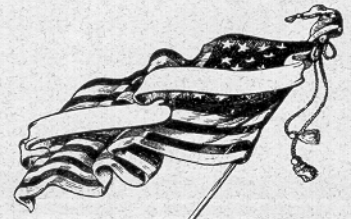
**LOOK** at the ID. Look at the picture and compare it to the person presenting the card and make sure they are the same. Look to see if the card is expired. Use a flashlight behind the card to look for cuts and alterations in the card, or the reflective laminated coating. Compare with your own ID or use an ID checking guide. Is the lamination cloudy? Heat may have been used to alter the information on the card. If the card is not readable, its not valid.

**ASK** questions about the holder: "what's your zip code, birth date, address, middle initial, etc." The zip code is usually the last information someone will learn on a fake ID. If in doubt, ask for a second piece of identification. People with fake ID's rarely carry back-up documentation. Ask for the age of the holder. Often the age they give will not match the birth date on the ID.

**GIVE** back the identification. If you feel confident the person presenting the card to you is 21 years of age or older, sell them the alcoholic beverages. If in doubt, don't sell. Current law states that selling alcoholic beverages to a minor is punishable by a fine of \$100-\$500 and/or up to 1 year in jail.

Remember to FLAG that ID -

**Feel, Look,  
Ask, Give back. ♦**





# It's Coming in September!

**N**ewer, fresher, interactive and definitely more educational. We're talking about the new Project SAVE that will be unveiled in September.

The TABC has made exciting progress on the new school-based Project SAVE. The first draft of the curriculum is completed and is under review. The agency is also testing and evaluating the curriculum in five different test sites across the state.

Agents involved in the project had a week-long training session to learn how to present the new program, and how to work with students using interaction, role playing, class discussions, and other teaching strategies. They took these newly learned skills to Amarillo, Longview and Laredo to begin the pilot tests and will continue in Dallas and El Paso during the summer.

Evaluation experts are on hand at each pilot test site and are evaluating the effectiveness of the program and the instructors. The agency will revise the curriculum and instructor training

based on the outcome of the ongoing evaluation.

The curriculum is currently being reviewed by a group of individuals from various organizations who have volunteered their time and expertise to this endeavor. Appropriate comments and recommendations received from these reviewers will be incorporated into the curriculum during this revision.

Instruction using the curriculum for fourth through ninth grade will be available in schools in the fall of 1997. Parent and community classes are also available. The agency uses the "Ready or Not" program developed by the Century Council which discusses how to talk to young people about the consequences of underage drinking. Upon request, TABC agents will instruct licensees, permittees and their employees concerning age laws, fake identification cards, and questions on the Alcoholic Beverage Code and Rules. ♦

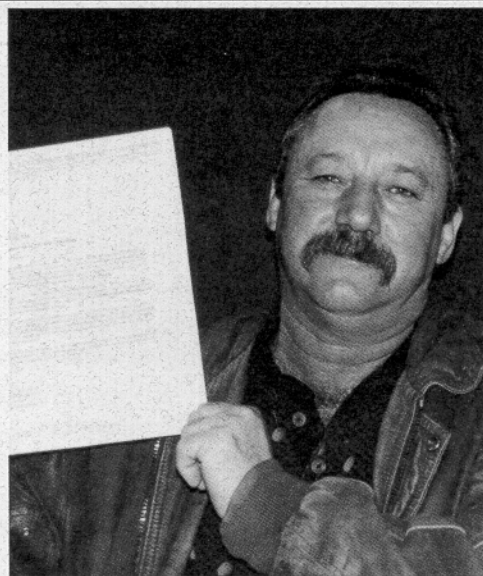


Photo Credit: The Bandera Bulletin

## Cow Averts Sting!

**P**urple Cow and Rev's Down Under owner Jeff Landlow proudly displays a letter he received from the agency recently acknowledging his commitment to targeting illegal underage drinking. Landlow is quick to point out that he "does not believe in underage drinking and he will not tolerate it." In the letter to Landlow, San Antonio Major A.L. Martinez noted that "Purple Cow employees were conscientious in observing the minor, firm in requesting proof of age and confidently denied the sale." Recent TABC initiatives to target illegal underage drinking through the use of minor stings has created a greater public awareness of the agency's activities in this area. "We are glad to see the ongoing cooperation from licensed businesses such as the Purple Cow who are taking every step possible to minimize the availability of alcoholic beverages to minors," notes Chief Hamilton. ♦

## Playing By the Rules...

**T**he Commission has amended the rule relating to restocking and rotation of alcoholic beverages. The rule, *16 T.A.C. §45.109(h)*, previously allowed restocking and rotation only during hours permissible for sale or delivery. The amendment allows malt beverages and wine to be restocked and rotated between 5:00 a.m. and noon on Sundays. This change, requested by the Wholesale Beer Distributors of Texas, allows employees of wholesalers and distributors to perform their work Sunday mornings, leaving the afternoon free for personal pursuits.

The Commission staff has just completed a series of meetings with representatives from each tier of the industry. The meetings were held to discuss possible revision and simplification of our rules, regarding restocking and rotation of alcoholic beverages; gifts or sales of promotional items, equipment, signs and displays; and services provided to retailers. The specific rules under discussion are *16 T.A.C. §§45.109, 45.113, 45.117, 45.118 and 45.119*.

The staff found these discussions to be interesting and enormously helpful. We intend to circulate a proposed revision of these rules to industry members within the next several weeks. After further discussion and revision, we plan to present our proposals to the Commissioners for publication in the Texas Register. We invite your comments and ideas on these proposals. ♦

# You Asked...questions about alcoholic beverage regulations

◆ ***Can an intoxicated person stay on the premises in a licensed establishment to "dry out" until it is safe to go home?***

It is a violation of Section 49.02 of the Penal Code to appear in a public place intoxicated to the degree that the person may cause harm to himself and/or to others. The intoxicated person may be arrested. The permit holder is not incurring a violation to allow an intoxicated person to remain on the licensed premises to "dry out" as long as that person is not served alcoholic beverages.



◆ ***Do you have to be 21 to work in a bar?***

No. In Texas, you must be at least 18

years or older to work at an establishment that serves alcoholic beverages (liquor) for on-premise consumption, unless you are employed by a mixed beverage permittee in any capacity other than the handling of alcoholic beverages.



◆ ***Can employees or owners drink on the licensed premises while working, or after shift hours?***

Employees who are 21 years of age or older may consume alcoholic beverages that are authorized for sale at the licensed premise during the legal hours for sale and consumption. It is up to each individual employer to determine whether to allow the employee to consume alcoholic beverages while working.

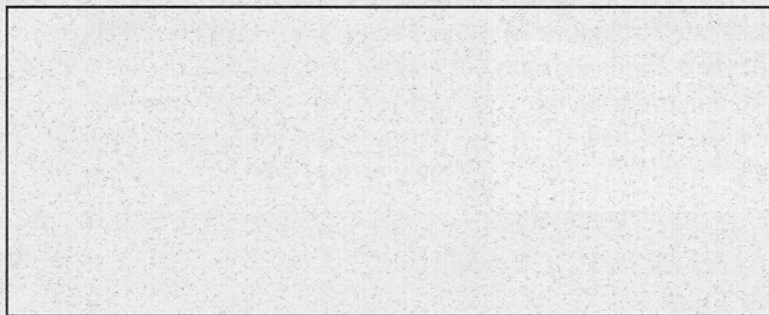
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Doyne Bailey, Administrator

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